

**342.285 Appeal to Workers' Compensation Board -- Remanding claim to administrative law judge.**

- (1) An award or order of the administrative law judge as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may in accordance with administrative regulations promulgated by the commissioner appeal to the Workers' Compensation Board for the review of the order or award.
- (2) No new or additional evidence may be introduced before the board except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling, or award, but the board shall otherwise hear the appeal upon the record as certified by the administrative law judge and shall dispose of the appeal in summary manner. The board shall not substitute its judgment for that of the administrative law judge as to the weight of evidence on questions of fact, its review being limited to determining whether or not:
  - (a) The administrative law judge acted without or in excess of his powers;
  - (b) The order, decision, or award was procured by fraud;
  - (c) The order, decision, or award is not in conformity to the provisions of this chapter;
  - (d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or
  - (e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
- (3) Within sixty (60) days following the date on which the last appellate brief was filed, the board shall enter its decision affirming, modifying, or setting aside the order, decision, or award, or in its discretion remanding the claim to the administrative law judge for further proceedings in conformity with the direction of the board. The board may, before decision and upon a sufficient showing of fact, remand the claim to the administrative law judge.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1814, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 355, sec. 9, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 15, sec. 82, effective April 4, 1994. -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 34, effective January 4, 1988. -- Amended 1976 Ky. Acts ch. 111, sec. 1, -- Amended 1972 Ky. Acts ch. 78, sec. 32, effective January 1, 1973 -- Amended 1964 Ky. Acts ch. 192, sec. 22. -- Amended 1962 Ky. Acts ch. 18, sec. 1. -- Amended 1960 Ky. Acts ch. 147, sec. 15. -- Amended 1948 Ky. Acts ch. 152, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4935.